

REMARKS

In the Office Action, the Examiner: (1) objected to claims 16 and 29; (2) rejected claims 1, 2 and 17-18 under 35 U.S.C. § 102(b) as being anticipated by International Patent Application WO/2002/09655 (Rollat-Corvol *et al.*); (3) rejected claims 3-15 under 35 U.S.C. § 103(a) as being obvious over Rollat-Corvol and International Patent Application No. 1999/42528 (Langer *et al.*); (4) rejected claims 19 and 20 under 35 U.S.C. § 103(a) as being obvious over Rollat-Corvol in view of U.S. Patent No. 5,683,685 (Hirano *et al.*) and Japanese Patent 04-041416 (Akira); and (5) provisionally rejected claims 1-15 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7, and 11-18 of co-pending application no. 10/511,019. In view of the amendments above, Applicant responds as follows:

1. Response to Objection

The Examiner objected to claims 16 and 19 under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should be written in alternative form. Applicant has removed the multiple dependency and submits that in view of the amendments, the objection is moot.

2. Response to Rejection under 35 U.S.C. § 102(b)

The Examiner rejected claims 1, 2 and 17-18 as being anticipated by Rollat-Corvol. Applicant expresses no opinion on the merits of the rejection. However, Applicant has amended claim 1 to include the features of previously pending claim 3. The Examiner has not identified where Rollat-Corvol recites the features of previously pending claim 3. Accordingly, Applicant submits that claim 1 is patentable over the cited art. Claims 2, 17 and 18, depend on claim 1. Therefore, for at least the reasons that claim 1 is patentable over the art of record, claims 2, 17 and 18 are patentable over it as well.

Applicant reserves the right to pursue the subject matter of unamended claim 1 at a later time in this application or in a continuation application.

3. Response to First Rejection under 35 U.S.C. § 103

The Examiner rejected claims 3-15 as being obvious over Rollat-Corval in view of Langer. Applicant expresses no opinion on the merits of the rejection. However, Applicant has amended claim 1 to include the features of previously pending claim 20. The Examiner has not identified where the cited references recite the features of previously pending claim 20. Accordingly, Applicant submits that claims 3-15, which by virtue of their dependency on claim 1 incorporate this feature, are patentable over the cited art.

4. Response to Second Rejection Under 35 U.S.C. § 103(a)

The Examiner rejected claims 19 and 20 as being obvious over Rollat-Corval in view of Hirano and Akira. Applicant expresses no opinion on the merits of the rejection. However, Applicant notes that claim 20 has been canceled and claim 19 depends indirectly on claim 1, which now includes the features of previously pending claim 3. The Examiner has not identified where any of the cited references, Rollat-Corval, Hirano and Akira disclose the feature of previously pending claim 3. Accordingly, Applicant submits that claim 19 is patentable over the cited art.

5. Response to Double Patenting Rejection

The Examiner provisionally rejected claims 1-15 over co-pending application U.S. Serial NO. 10/511,019. Because Applicant has amended claim 1 to include the features of previously pending claim 20, and the Examiner did not issue the rejection

with respect to previously pending claim 20, Applicant submits that this basis for rejection is now moot.

Conclusion

Applicant hereby request a three-month extension of time under 37 CFR 1.136(a) and authorizes the Patent Office to charge the requisite fee to the credit card identified on the attached credit card authorization form. No additional fee is believed to be due with respect to the filing of this amendment. If any additional fees are due, or an overpayment has been made, please charge, or credit, Deposit Account No. 11-0171 for such sum.

If the Examiner has any questions regarding the present application, the Examiner is cordially invited to contact Applicant's attorney at the telephone number provided below.

Respectfully submitted,

/Scott D. Locke/
Scott D. Locke, Esq.
Registration No.: 44,877
Attorney for Applicant

Kalow & Springut LLP
Telephone No.: (212) 813-1600